

RECEIPT # 54088
AMOUNT \$ 150⁰⁰
SUMMONS ISSUED N/A
LOCAL RULE 4.1 _____
WAIVER FORM _____
SUPERIOR COURT MOJISS _____
C.A. NO. 2004-00094 BY DEPT. CLK. m
DATE 2-25-04

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

EARTHSOURCE, INC.,

Plaintiff

v.

THE TOWN OF RAYNHAM, GORDON D.
LUCIANO, DONALD L. MCKINNON,
RAYMOND W. PLATT, individually & as
members of the Raynham Board of Health,

Defendants

NOTICE OF REMOVAL

04 CV 10373 REK

MAGISTRATE JUDGE Collins

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MASSACHUSETTS:

Now come the defendants pursuant to the provisions of 28 U.S.C. §§1441 and 1446, and hereby file notice of the removal of this action from the Superior Court of the Commonwealth of Massachusetts, County of Plymouth, where it is currently pending, based upon the following grounds:

1. This is an action in which the plaintiff alleges violations of its civil rights under the Fourteenth Amendment to the U.S. Constitution and seeks relief presumably pursuant to 42 U.S.C. §1983) (Count IV). See Complaint, ¶46-51, affixed hereto and incorporated by reference. The plaintiff also asserts state law claims: that the defendants issued a prohibitive order in violation of state Law (Count I); declaratory judgment (Count II); and a request for annulment of a site assignment (Count III).
2. This Court has jurisdiction over the plaintiff's constitutional claims pursuant to 28 U.S.C. §1441.

3. This Removal is timely, as this action was first served on the defendant on January 26 and 27, 2004.

4. All defendants have consented to the removal of the matter to the United States District Court for the District of Massachusetts.

SIGNED PURSUANT TO RULE 11 OF THE FEDERAL RULES OF CIVIL PROCEDURE.

DEFENDANTS,

By their attorneys,



Mark R. Reich (BBO# 553212)
Joseph L. Tehan, Jr. (BBO# 494020)
Kopelman and Paige, P.C.
31 St. James Avenue
Boston, MA 02116
(617) 556-0007

214428/Metg/0532

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document
was served upon the attorney of record for each other
party by (hand) (mail) on 2/25/04

